

(b) Waiver can be made when collection causes undue hardship to the injured party. Ordinarily, factors such as the following should be considered:

- (1) Permanent disability or disfigurement.
- (2) Decreased earning power.
- (3) Out of pocket losses.
- (4) Financial status of injured party.
- (5) Pension rights.
- (6) Other government benefits to the injured party.
- (7) An offer of settlement from a third party which includes virtually all the thirty party's assets, although the amount is considerably less than the calculation of the injured party's damages.

(c) A compromise can be made upon written request from the injured party or the injured party's legal representative when liability is questionable, the injured party received excessive treatment, or the litigation risks dictate, and either of the following occurs:

- (1) The injured party accepts less than the jury verdict expectancy. When this occurs, the Air Force should consider settling its claim in a ratio similar to that which the total settlement bears to the jury verdict expectancy.
- (2) The government's claim is almost as large as, or is larger than, the assets available for settlement.

§ 842.125 Reconsideration of a waiver for undue hardship.

A settlement authority may reconsider its disapproval of a waiver or compromise, when either:

- (a) The injured party submits new evidence.
- (b) Errors exist in claim submission or settlement.

Subpart O—Nonappropriated Fund Claims

§ 842.126 Scope of this subpart.

This subpart describes how to settle claims for and against the United States for property damage, personal injury, or death arising out of the operation of Nonappropriated Fund Instrumentalities (NAFIs).

§ 842.127 Definitions.

(a) *Army and Air Force Exchange Service (AAFES)*. The Army and Air Force

Exchange Service is a joint command of the Army and Air Force, under the jurisdiction of the Chiefs of Staff of the Army and Air Force, which provides exchange and motion picture services to authorized patrons.

(b) *Morale, welfare, and recreation (MWR) activities*. Air Force MWR activities are activities operated directly or by contract which provide programs to promote morale and well-being of the Air Force's military and civilian personnel and their dependents. They may be funded wholly with appropriated funds, primarily with nonappropriated funds (NAF), or with a combination of appropriated funds and NAFs.

(c) *Nonappropriated funds*. Nonappropriated funds are funds generated by Department of Defense military and civilian personnel and their dependents and used to augment funds appropriated by the Congress to provide a comprehensive morale-building, welfare, religious, educational, and recreational program, designed to improve the well-being of military and civilian personnel and their dependents.

(d) *Nonappropriated funds instrumentality*. A nonappropriated fund instrumentality is a Federal government instrumentality established to generate and administer nonappropriated funds for programs and services contributing to the mental and physical well-being of personnel.

§ 842.128 Delegations of authority.

(a) *Settlement authority*: (1) Each individual has the same delegated authority to settle a claim for which NAFs may be liable as that specified for a similar type claim in each subpart of this part. The decision of the settlement authority is binding upon the NAFI.

(2) The Judge Advocate General, in addition, has delegated authority to settle subparts F, G, and J type claims in any amount without referral to the Secretary of the Air Force or the General Accounting Office.

(3) The Chief, Deputy Chief, and Branch Chiefs, Claims and Tort Litigation Staff, in addition, have delegated authority to settle subparts F, G, and J type claims for \$100,000 or less without referral to the Secretary of the Air